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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/383,759	08/26/1999	JEAN-CLAUDE JUNQUA	9432-000082	7006
7590	04/09/2004		EXAMINER	
HARNESS DICKEY & PIERCE PLC P O BOX 828 BLOOMFIELD HILLS, MI 48303			TRAN, HAI V	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/383,759

Applicant(s)

JUNQUA ET AL.

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 25-38 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### **Withdrawal of Finality of Last Office Action**

Applicant's request for reconsideration of the finality of the rejection of the last Office action (paper #26) is persuasive and, therefore, the finality of that action is vacated.

A Non-final Office Action is followed.

### ***Response to Arguments***

Applicant responds to claims 25-38 rejected under 35 U.S.C. 112, first paragraph, in the amendment dated November 25, 2003 is persuasive; therefore, the rejected claims 25-38 under 35 U.S.C. 112, first paragraph, is withdrew. A new ground of rejection is established.

### ***Election/Restrictions***

The amendment filed on 07/23/2003 canceling all claims drawn to the originally presented invention and presenting newly added claims drawn to a new invention is non-responsive (MPEP § 821.03).

Newly submitted claims 25-38 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly added claims contain new subject matters, i.e., a method for performing file management upon a group of entertainment media files, maintaining a user data, store containing data about a user, identify at least one specific file from the group of entertainment media files, maintaining a program data store containing

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metadata, using the 3<sup>rd</sup> information along with the 1<sup>st</sup> and 2<sup>nd</sup> information to identify at least one specific file... which is directed to class 707 Database and File management, or Data Structure, or File and database maintenance. Furthermore, the Applicant self admits in the remark dated November 25, 2003 that limitation "performing a management operation upon said file" refers to a file management operations.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25-38 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is 703-308-7372. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht  
04/01/04



**VIVEK SRIVASTAVA**  
**PRIMARY EXAMINER**